


Message

From: Sweeney, Stephen [Sweeney.Stephen@epa.gov]
Sent: 2/1/2021 3:51:38 PM
To: Packard, Elise [Packard.Elise@epa.gov]
CC: Talbert-Duarte, Angelia [talbert-duarte.angelia@epa.gov]; O'Lone, Mary [OLone.Mary@epa.gov]
Subject: Response from Sincere Harris -- for situational awareness only, no need to respond

From: Harris, Sincere <Harris.Sincere@epa.gov>
Sent: Saturday, January 30, 2021 4:41 PM
To: Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Subject: RE: Question about senior managers at EPA -- RE: Vacancies table update, January 25, 2021

Sebastian – I am looping in my Deputy, Fernando, whose first day was this past Monday. I had to read this twice, but it was VERY helpful. Thank you.

Sinceré A. Harris
White House Liaison, EPA
202-570-5675


From: Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Sent: Monday, January 25, 2021 4:55 PM
To: Harris, Sincere <Harris.Sincere@epa.gov>
Cc: Smith, Kathryn <Smith.Kathryn@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>
Subject: Question about senior managers at EPA -- RE: Vacancies table update, January 25, 2021

Hi Sinceré, nice to e-meet you as well.

I am a **staff attorney in the Office of General Counsel** who covers legal issues arising under the Federal Vacancies Reform Act and the Appointments Clause. Though you directed your question to Donna and Kathryn, I figured I should respond because I prepared (and update) the Table. The positions in the Table are the **14 positions at EPA that are positions filled by “Presidential Appointments Requiring Senate Confirmation” (PAS)**. Each of the positions is created by a statute that either requires or allows the President to appoint an official by and with Senate advice and consent.

So quick answer first: EPA *still* has vacancies for all the positions (minus the Inspector General) **but there are now senior managers in place to manage and maintain EPA operations in every PAS position** (minus the Deputy Administrator position).

A “vacancy” arises when the incumbent official dies, resigns, or otherwise becomes unable to perform the functions and duties of the position and, in most circumstances, someone can serve as the “acting” official in that position.

The sequence of the positions in the Table corresponds to the Executive Order establishing the Order of Succession for the EPA Administrator in the event of vacancies in the positions of both the Administrator and Deputy Administrator. [Initially, I started preparing and updating the table for the personnel in EPA’s Emergency Operations Center to provide real time updates in the event of a national security emergency. But because lots of other EPA staff use the Table for a variety of purposes, my distribution list has grown.]

The Federal Vacancies Reform Act says **who can perform the those functions and duties on a temporary basis and for how long**. Other than the Inspector General position (which is for a fixed period of years), each of the EPA positions became “vacant” at noon on the day of the Inauguration. **By default, the person in the position of “first assistant” becomes the acting official**. At EPA, some of the first assistant positions – **principal deputies** – are career officials, some are non-career. The President can override the default by directing another senior agency official to serve as the acting official. [This is how Jane Nishida came to be Acting Administrator.] **Normally, someone can be the acting official for 210 days** (seven months) after a vacancy, but that time period becomes extended and indeterminate if and when the President submits a nomination. For a Presidential inaugural transition, there is an additional 60 days so for now, **the acting officials can serve for 300 days, or until November 16th**.

We can provide you a fuller briefing once things settle down a little bit.

Hope this helps and **welcome to EPA!**

Steve

Stephen J. Sweeney
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202-564-5491 (desk)



From: Harris, Sincere <Harris.Sincere@epa.gov>
Sent: Monday, January 25, 2021 3:25 PM
Cc: Smith, Kathryn <Smith.Kathryn@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>
Subject: Re: Vacancies table update, January 25, 2021

Thanks Stephen! It's a pleasure to e-meet you.

Donna / Kathryn — do I read this correctly in that when it comes to OGC, there are no vacancies save the PAS positions of Administrator and Janet McCabe being confirmed?

Sent from my iPhone

On Jan 25, 2021, at 7:38 AM, Sweeney, Stephen <Sweeney.Stephen@epa.gov> wrote:

Updated to reflect management change in the Office of Chemical Safety and Pollution Prevention.

Stephen J. Sweeney

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